

Hawai'i Civil Rights Project

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November 20, 2021

VIA CERTIFIED U.S. MAIL

Dana M.O. Viola
Krishna F. Jayaram
Department of Corporation Counsel
530 S. King Street, Suite 110
Honolulu, HI 96813

Re: Joshua Priestersbach's Amended Notice of Intent to Sue Pursuant to H.R.S. §46-72

Dear Corporation Counsel:

Joshua Priestersbach has retained me to represent them for injuries suffered due to Mr. Priestersbach being wrongfully arrested on May 11, 2017, for the crimes of Thomas Ralph Castleberry (Case# 1PC-06-1001421) and then wrongfully imprisoned at the Oahu Community Correctional Center ("O.C.C.C.") and then at the Hawai'i State Mental Hospital ("H.S.H") until his release on January 17, 2020. On August 9, 2021, I submitted a notice of intent to sue. This letter amends that initial notice to include the additional parties and claims that we intend to bring in our unfiled lawsuit.

I previously attached the memorandum in support of the Rule 40 petition that was recently filed on behalf of Mr. Priestersbach (Case# 1CSP-21-0000207). I incorporate the facts as alleged in the memorandum as if entirely rewritten herein. Mr. Priestersbach, as well his family, have suffered harm from the tortious conduct from the following departments/agencies: Honolulu Police Department ("HPD") and its officers (including Officer Abraham Bruhn); Department of Public Safety for O.C.C.C.; the Honolulu Office of the Public Defenders ("H.O.P.D."); and H.S.H. and it's doctors.

The factual allegations are more fully briefed in the attached Memorandum, but a brief synopsis of Mr. Priestersbach's wrongful arrest and incarceration are as follows. Mr. Priestersbach is a person who struggles with a mental health disability. On May 11, 2017, Mr. Priestersbach was houseless at the time and waiting for food outside of Safe Haven, located at 126 N. Pauahi St. Honolulu, HI 96817. Thomas Ralph Castleberry, whom Mr. Priestersbach did not know and had never met, had an outstanding felony bench warrant stemming from his 2006 case. When approached by the HPD officer, Mr. Priestersbach told the officer his name was Joshua Priestersbach. At no time did Mr. Priestersbach say to the officer he was Thomas Castleberry. The HPD officer arrested Mr. Priestersbach for Thomas Castleberry's outstanding felony bench warrant. Mr. Priestersbach maintained his innocence and repeatedly told numerous employees of all county and state agencies mentioned above that he was not Thomas Castleberry and was

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not on Oahu when Thomas Castleberry committed his crimes. This injustice could have been avoided if HPD officers, D.P.S. employees at O.C.C.C., the public defenders, the prosecutor, and the H.S.H. compared the two men's fingerprints and photographs. Instead, agents for the county and state locked Mr. Spriestersbach in O.C.C.C. and the H.S.H. for nearly two years and eight months and forced him to take strong psychiatric drugs. In January 2020, an H.S.H. Doctor finally listened to Mr. Spriestersbach, realized their mistake, and quietly released him to a homeless shelter with only \$0.50 to his name.

Mr. Spriestersbach intends to bring the following claims against the individuals listed above including: 42 U.S.C. 1983 violations of the 4th and 14th Amendment, discrimination on the basis of disability, false imprisonment, negligence, medical malpractice, intentional infliction of emotional distress, negligent infliction of emotional distress, malicious prosecution, abuse of process, and legal malpractice. Mr. Spriestersbach has suffered from the tortious conduct caused by individuals and agencies described here and in the previously provided Rule 40 Memorandum, which provides sufficient notice pursuant to HRS §46-72. Furthermore, this letter serves as notice that the actions of those listed above also inflicted emotional distress and loss of consortium for the family of Mr. Spriestersbach. Damages are impossible to calculate at this point because the tort is still ongoing. However, I can say the harm done to my client and his family exceeds the jurisdictional amount for Hawai'i District Court civil cases.

In addition to providing you with this amended notice of our intent to sue, I also requested that you preserve all evidence related to this incident, including but not limited to: the arrest report, body camera, and notes from the May 17, 2017 arrest of Mr. Spriestersbach; any and records from O.C.C.C. regarding Mr. Spriestersbach and his care while incarcerated there from approximately 4 months from May-August, 2017; all records from H.S.H. regarding Mr. Spriestersbach's care from 2003 until his release in 2020; all records including arrest reports, police report, witness statements, and court records pertaining to Thomas Ralph Castleberry; all original memos and documents, and records taken by any investigative or officers, including any police reports, photographs, emails, and documents that may have been exchanged between any employee of H.P.D. or other employees of the City and County of Honolulu. No documents should be erased or destroyed - any and all emails, correspondence, or documents that are in any way related to this case should be preserved. This request for preservation of evidence is ongoing.

If you would like to discuss a fair resolution of the matter before filing our lawsuit in Federal court, I can be reached at (808) 554-5576 or at hawaiiicivilrightsproject@gmail.com.

Sincerely,


Jennifer Brown, Esq.

Cc: Mr. Joshua Spriestersbach
Ms. Vedanta Griffith

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Dana Viola / Krishna Jayaram
Dept. of Corp Counsel
530 S. King Street #110
Honolulu HI 96813



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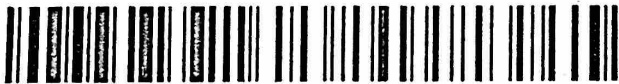
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